

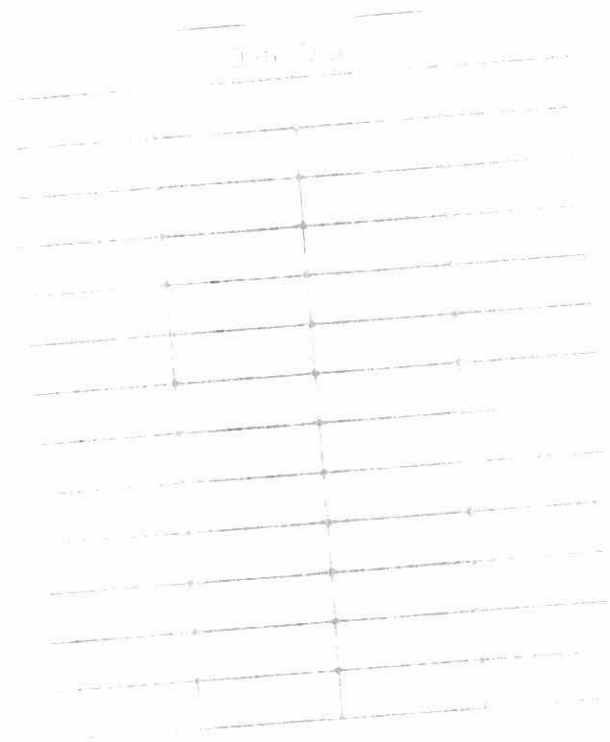
INVESTIGATIONS AND ENFORCEMENT BRANCH

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1985



Ontario

Ministry
of the
Environment



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INVESTIGATIONS AND ENFORCEMENT BRANCH

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Date: June, 1985

HAZARDOUS CONTAMINANTS
AND STANDARDS BRANCH
135 ST. CLAIR AVENUE WEST
TORONTO, ONTARIO M4V 1P5

Purpose:

To operate as an objective and independent Branch of the Ministry to deliver all aspects of environmental enforcement across the Province.

Statement of Need:

The Ministry administers the Environmental Protection Act, the Ontario Water Resources Act, the Environmental Assessment Act and the Pesticides Act and all regulations under these acts. Enforcement of these statutes has been carried out by the Regional Abatement groups within the Ministry since the early 1970's. These groups have historically been charged with the responsibility of monitoring pollution and designing corrective programs. Monitoring efforts have been stressed in recent years due to manpower and budget restraints. Enforcement has been part of the Regional responsibility and has been identified as a burden on manpower and resources.

Enforcement action takes the form of warnings, administrative orders, injunctions and prosecutions. Because of the close contact abatement staff have with assisting polluters

in resolving their pollution problems, the maintenance of an objective stance is difficult. Indeed, often abatement staff see the polluters that they deal with as "client" groups. Abatement programs are developed in a consultant-type atmosphere. The conflicting roles experienced by staff in developing abatement programs while charged with enforcement has been identified within the Ministry and by the media.

Media coverage of environmental matters repeatedly draws attention to the Ministry's weak enforcement and prosecution activities. The public's perceptions of the inadequacies of these activities are reinforced by numerous factors including:

- small size of the current workforce involved in abatement (140 staff responsible for over 11,000 potential pollution sources);
- the Ministry's performance record (major program areas such as privately-used industrial waste sites are not currently inspected; 13 percent or 253 out of 1,957 closely monitored pollution sources are not in compliance; only 54 prosecutions occurred in 1984-85);
- fines for environmental offences lack deterrent force (not revised since 1971); average fines are \$8,500.

An objective enforcement program to administer the Ministry's legislation is paramount to developing a respect for pollution laws.

In addition to the creation on a new approach to enforcement, the Ministry will propose increasing penalties substantially.

A policy change is necessary to separate the functions of the abatement groups from those of units charged with enforcing environmental laws.

To accomplish this objective enforcement approach in a uniform manner, an Investigations and Enforcement Branch has been created.

Administrative Implications

A significant commitment in manpower and resources is required. A new Branch headed by the Director, Investigations and Enforcement Branch has been created and will have a staff of 85. The current Special Investigation Unit staff will be included in this total. The Director would report to the Associate Deputy Minister of the recently named Intergovernmental Relations and Enforcement Division.

The new Branch would significantly bolster the number of available enforcement personnel at the field level. Each District of the Ministry would have a staff member dedicated solely to enforcement and investigations. Enforcement staff would report to the Director, Investigations and Enforcement Branch.

In addition to the Investigations and Enforcement Branch, there will be a significant extension of Abatement resources. To allow for this, 10 additional abatement staff will be provided.

Additional funds have been provided to the Ministry to allow for these program expansions in 1985-86 and 1986-87.

In order to bring the Ministry's capabilities up to current enforcement agency standards, a major recruitment of police officers is recommended. Key positions in the

investigative and training areas of the Branch would be filled by abatement and police officers.

An Environmental Task Force, headed by a strong investigative supervisor would report to the Director. This Task Force would operate across the Province and initiate investigations in the most sensitive environmental areas.

The Ministry would be able to develop a proactive enforcement program to seek out and act upon environmental infractions. The Environmental Task Force, as well as all Branch investigators, would be expected to initiate prosecutions and recommend administrative orders at the earliest opportunity. This, it is anticipated would remove the Ministry's current reputation of being reactive to situations after they become issues.

Prosecutions would be initiated at the field level with limited senior management approval. This approach is used in all police-type agencies across Canada. This policy change would ensure objectivity and remove the possibility for allegations of bureaucratic interference. Prosecution approvals would be decided by senior enforcement officers and Legal Services Branch, with the final sign-off by the Deputy Minister.

Staffing Implications

The Branch would be divided into a Field Operations Group and an Administrative Group.

Field Operations Group

All current Special Investigations Unit staff would be incorporated into the Branch and would report to the Manager, Field Operations. Total field staffing would consist of the following:

<u>Regions</u>	<u>Position</u>	<u>Location</u>
Central:	- Supervisor - Investigators	Toronto York-Durham Barrie Oakville Muskoka Peterboro
West Central:	- Supervisor - Investigators	Hamilton Welland Cambridge
Southwest:	- Supervisor - Investigators	London Chatham Owen Sound Sarnia
Southeast:	- Supervisor - Investigators	Kingston Ottawa Cornwall
Northeast:	- Supervisor - Investigators	Sudbury Timmins S.S. Marie North Bay
Northwest:	- Supervisor - Investigators	Thunder Bay Kenora

Each field investigator would deliver an enforcement program within a District boundary. The program would include ad hoc monitoring, case investigations, spot checks and compliance surveillance. Each officer would report to an Investigations and Enforcement Supervisor. The supervisor would act as an investigator as well as administer the program in his/her Region. Investigations and manpower assignments within a Region would be the responsibility of the Supervisor.

Each Regional supervisor would report to the Manager, Field Operations. The Manager would report to the Director.

Administrative Group

An active and comprehensive enforcement agency relies on administrative support. An Administrative Group would provide field staff with human resource and personnel services advice.

An on-line data and statistical reporting system will be developed to provide Managers with up-to-date information regarding enforcement activities. Regional Directors, Managers and District Officers will have ready access to all information in this system. Monthly enforcement reports will be provided and synopsis of prosecutions will be provided to Regional staff.

A comprehensive training and staff development program will be developed for enforcement staff. A training officer

would develop courses and an in-service training program for Branch personnel.

The Administrative Group would also consist of positions to assist field investigators in specific policy areas. Officers assigned to specific areas of the Ministry's programs would provide enforcement field staff with details on policies, programs, definitions and legislation. These areas would include:

- Waste Management
- Air and Vehicle Emissions
- Water Resources
- Aerial and Photographic Surveillance

These staff would be the liaison with the policy area branches of the Ministry to provide information to field operations.

Environmental Task Force

An Environmental Task Force would be set up in order to concentrate enforcement activities as required.

A Task Force Leader would be recruited to manage this group. Reporting to the Branch Director, the Environmental Task Force Leader would concentrate manpower on specific environmental problems.

A group of Environment Task Force investigators would be recruited. Officers would gather intelligence; operate surveillance operations, undercover investigations and perform major province-wide enforcement activities. The Task Force would investigate quasi-criminal activities suspected in the waste management industry. Investigations into transboundary movements of liquid and hazardous waste would be part of the emphasis of the Task Force. The Task Force would be deployed as required ie. investigations of major spills.

A Community Relations Officer would act as the Ministry spokesman with regards to Branch activities. Reporting to the Branch Director, the officer would assist in the development of media contacts, liaise with field staff, assist in the preparation of news releases and act as the Ministry spokesperson at major environmental emergencies. This person would also act as a community liaison person to promote environmental law enforcement awareness, and would work in close contact with the Communications Branch.

Other Considerations

The implementation of the development of an Investigations and Enforcement Branch will shift manpower resources and workplanning within the Ministry.

Abatement staff would be relieved of the responsibility for enforcing the Acts and Regulations. This would allow for increased abatement activities in the areas of routine monitoring, pollution abatement program development, the review of applications for Certificates of Approval; Environmental Assessment reviews and hearings. Violations of statutes would be reported by Ministry staff and by the public and would be directed to the Investigations and Enforcement Branch for action. Branch investigators would seek out infractions and take appropriate action. Investigations would be conducted in cooperation with Regional staff to ensure that abatement program activities were not frustrated.

With increased prosecution activity, the need for strengthening the Legal Services Branch would be imperative. Initially, several additional solicitors would be requested from the Ministry of the Attorney-General.

The initiation of a concentrated enforcement program will enhance the profile of the Ministry. Additional community relation activities are envisaged in order to inform the public

of the Ministry's enforcement activities. This would be accomplished through the present Communications Branch.

The implementation of these recommendations would bring about a more objective approach to the enforcement of environmental laws. While this has benefits, it also will result in polluters reacting to a stronger Ministry approach. The benefits of this improved image must be viewed against the negative responses from polluters.

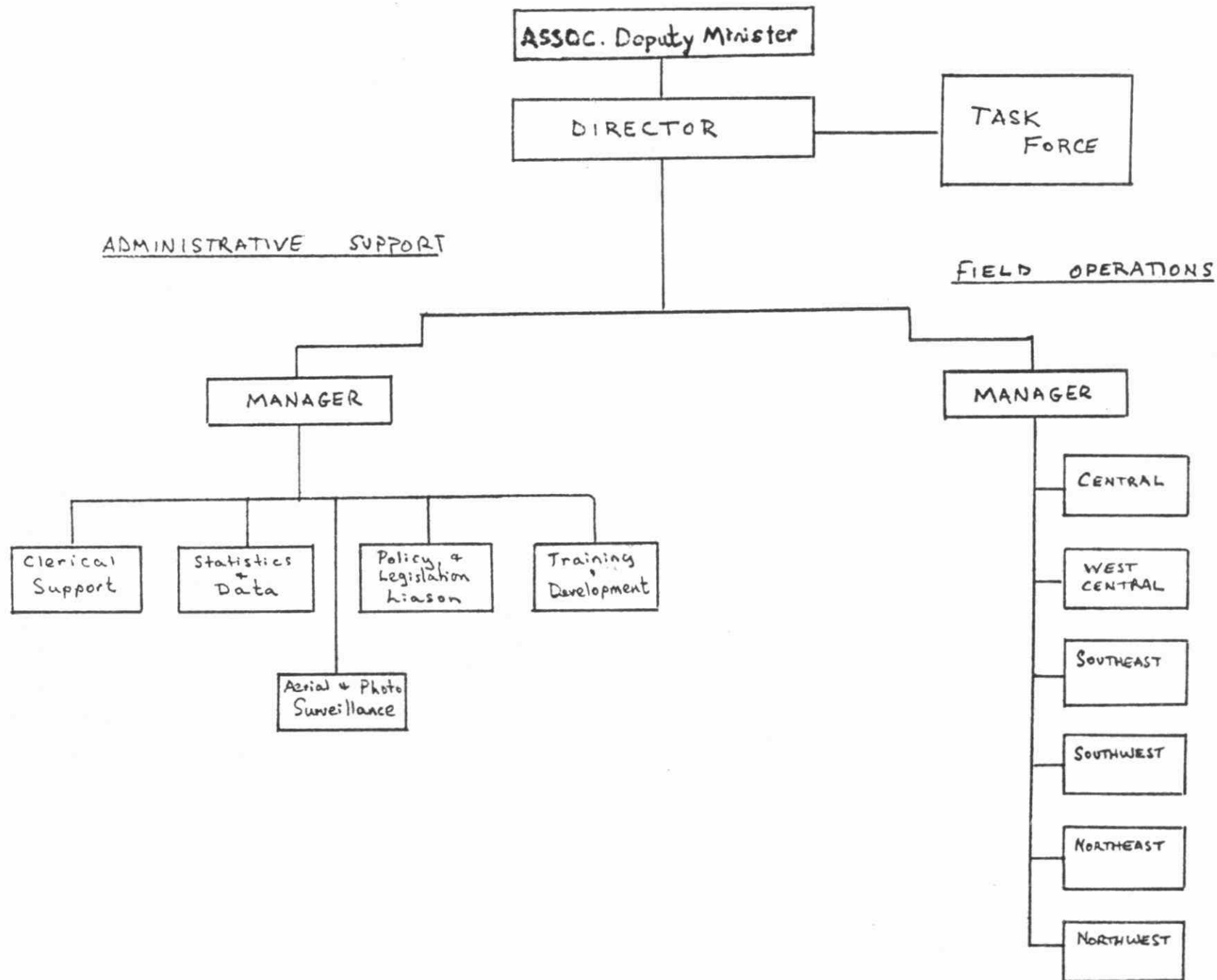
The program would largely remove allegations of the possibilities for bureaucratic interference or inaction with reference to enforcement. Field officers would make decisions where to commence prosecution; similar to a police officer. The process for initiating a prosecution would be simplified to allow for speedier response.

Program areas that would be particularly concentrated upon would be:

- Liquid Industrial
 - Waste; organized illegal activities
 - ; transboundary shipping
 - ; spot audit
 - ; waste categorization
- Air and Vehicle
 - Emissions; highway enforcement improvement
 - ; Certificate of Approval audits
 - ; spot compliance investigations
 - ; incident investigations
 - ; complaints
- Water Resources; industrial compliance monitoring
 - ; Certificate of Approval audits
 - ; spot compliance investigations
 - ; incidents and spills

- Pesticides and Hazardous Materials
 - ; routine enforcement
 - ; compliance monitoring
 - ; on-scene emergency response
- Training
 - ; investigation techniques
 - ; audit and investigative accounting
 - ; intelligence gathering
 - ; identification and evidence
 - ; aerial surveillance techniques
 - ; Management orientation to enforcement
 - ; enforcement by objectives
- Statistical and Data
 - ; caseload reports
 - ; occurrence follow-up
 - ; fines and penalties
 - ; management by results

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